

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Scott Hutchison Enterprises, Inc., et al.,	:	Civil Action No. 1:01CV00776
Plaintiffs	:	Judge Weber
v.	:	
Rhodes, Inc., et al.,	:	PLAINTIFFS' SUBMISSION
Defendants	:	OF ADDITIONAL AUTHORITY IN
	:	RESPONSE TO THE SUPPLEMENTAL
	:	BRIEF OF ZIMMER AND GEISLER

Plaintiffs submit the recent case of *Sharp v. Ohio Civil Rights Commission*, 2005 WL 589889 (Ohio App.7 Dist.), which was decided March 10, 2005. A copy is attached to this Memorandum. Contrary to the assertion of Zimmer and Geisler, this case stands for the proposition that the doctrine of equitable tolling is a viable doctrine under Ohio law, wherein that the doctrine of equitable tolling may be employed to prohibit inequitable use of the statute of limitations (citing four cases). Moreover, *Morrison v. First National Bank*, (2002 WL 264578) (Ohio App.10 Dist.), cited by defendants, is distinguishable because its ruling relies on the fact that the plaintiff in that case did not attempt to serve the defendant with the amended complaint, and therefore, did not "attempt to commence" an action against the bank. In this case, the Second Amended Complaint was, in fact, served and the action commenced, by reason of which *Morrison* is inapplicable.

Respectfully submitted,

/S/ William P. Schroeder
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CERTIFICATE OF SERVICE

I hereby certify that on March 21, 2005, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: E. David Marshall at edavidm@iglou.com; Gayle Benner McGrath at gmcgrath@wyattfirm.com; and Thomas Robert Schuck at schuck@taftlaw.com and **I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:**

Kevin J. Waldo, 413 Center Street, Ironton, OH 45638-1505; E. Christine Lewis, Wyatt Tarrant & Combs, LLP, 250 West Main Street, Suite 1600, Lexington, KY 40507-1746; W. Craig Robertson, Wyatt Tarrant & Combs, LLP, 250 West Main Street, Suite 1600, Lexington, KY 40507-1746; Craig R. Paulus, Taft Stettinius & Hollister, 425 Walnut Street, Suite 1800, Cincinnati, Ohio 45202; and M. Bradford Sanders, Sanders & Associates, 9122 Montgomery Road, Suite 201, Montgomery, OH 45242.

/S/ William P. Schroeder

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